

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of the Federal-State Joint)	
Board on Universal Service)	CC Docket No. 96-45
)	
)	
Petition of the Wyoming Public Service)	
Commission for Waiver of Filing Deadline)	
for Rate Comparability Certification)	
Pursuant to 47 C.F.R. § 54.313(d)(3))	

**COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.
IN SUPPORT OF THE WYOMING PUBLIC SERVICE COMMISSION’S PETITION
FOR WAIVER**

Qwest Communications International Inc. (“Qwest”) submits these comments in support of the Wyoming Public Service Commission’s (“WYPSC”) above-referenced Petition for Waiver.¹

In accord with 47 C.F.R. § 1.3 the Federal Communications Commission (“Commission”) may waive any of its regulations when good cause is demonstrated. To show good cause a carrier must demonstrate that there are special circumstances warranting deviation from the general rule and that waiver will serve the public interest.²

Good cause exists to support the Commission granting this Waiver. First, there are special circumstances. As the WYPSC has explained, it mistakenly believed that it had timely filed its 2008 residential rate comparability certification. It was not until a carrier impacted by the belated filing shared its January 2008 letter from Universal Service Administrative Company (“USAC”) regarding the filing that the WYPSC realized that the certification had not been timely

¹ See Wyoming Public Service Commission’s Petition for Waiver, filed Feb. 13, 2008. (“Petition for Waiver” or “Waiver”). And see *Public Notice*, DA 08-479, rel. Feb. 28, 2008.

² *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

filed. The WYPSC took immediate steps to investigate and rectify the situation including filing the subject Petition for Waiver. Additionally, the WYPSC immediately reassigned all matters related to federal universal service certification to other staff and has committed to implementing a chain of supervision to ensure that future filings are made timely. The WYPSC has filed the rate comparability certification before October 1 in prior years, and fully intends to do so in future years.

Further, the WYPSC request for Waiver is limited in scope. The WYPSC only seeks waiver of the requirement that the rate comparability certification be filed by October 1 in order for non-rural eligible telecommunications carriers (“ETCs”) to receive federal universal service high-cost support for all four quarters of the following calendar year. Because the WYPSC filed the certification before January 1, 2008, the non-rural carriers are able to receive funds for the second, third, and fourth quarters in accord with Section 54.313(d)(3)(ii).³ Granting the WYPSC’s Petition for Waiver would permit non-rural carriers to receive funding for the first quarter of 2008 as well.

Second, granting the requested Waiver serves the public interest. Granting the Waiver will support the goals of federal universal service of providing quality telecommunications services at affordable rates to customers in rural and high-cost areas.⁴ In fact, federal universal service support in Wyoming is especially critical. Wyoming rural customers, even with federal

³ And, the WYPSC timely filed before October 1 the state certification of support for non-rural carriers that is also required to enable non-rural carriers to receive federal high-cost support for all four quarters of 2008.

⁴ See 47 U.S.C. § 254(b) (setting out federal universal service principles); *see also In the Matter of Federal-State Joint Board on Universal Service; Kansas Corporation Commission Petition for Waiver of Sections 54.313 and 54.314 of the Commission’s Rules*, Order, 22 FCC Rcd 960, 962 ¶ 6 (2007) (stating that granting waiver for Kansas Commission’s untimely filing of Sections 54.313 & 54.314 certifications for newly-designated ETCs would “further the goals of universal service by helping maintain and promote access to quality services in rural and high-cost areas.”)

and state universal service support, are paying some of the highest rates for telephone service in the country.⁵ In fact, even with the federal and state universal service support credits applied directly to their bills, residential customers in rural areas of Wyoming still pay rates that are not reasonably comparable to the nationwide urban rate benchmark.⁶ Under these circumstances, loss of federal high-cost support would be particularly egregious.⁷ It is not in the public interest to have the telephone customers of Wyoming bear this burden because of the belated filing of this rate comparability certification over which neither the customers, nor their carriers, had any control.⁸

⁵ Exhibit B to the subject Petition for Waiver of Rate Comparability Filing Deadline is the 2008 Rate Comparability Certification filed by the WYPSC. In that letter the WYPSC states that the basic residential rate to customers served by Qwest in rural areas of Wyoming, after federal and state Universal Service Fund (“USF”) credits are applied to the bill, is \$44.07 as of July 1, 2007. In comparison, Table 1.3 of FCC Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Service, Industry Analysis and Technology Division, Wireline Competition Bureau, 2007, reflects residential rates in sample United States cities as of October 15, 2006 that range from a low of \$17.10 in several California cities to a high of \$37.01 in Milwaukee, Wisconsin.

⁶ See Letter from Kathleen A. Lewis, Chairman Wyoming Public Service Commission to Marlene Dortch, FCC, & Karen Majcher, USAC dated Dec. 20, 2007 re Residential Rate Comparability Certification for Wyoming’s Non-Rural Incumbent Local Exchange Carrier Serving Rural Areas in Wyoming, Exhibit B to subject Petition for Waiver of Rate Comparability Filing Deadline, at 2, 4.

⁷ See *In the Matter of Federal-State Joint Board on Universal Service; West Virginia Public Service Commission; Request for Waiver of State Certification Requirements for High-Cost Universal Service Support for Non-Rural Carriers*, Order, 16 FCC Rcd 5784, 5786 ¶ 7 (2001) (finding that waiver was appropriate where West Virginia Commission’s failure to timely file Section 54.313 state certification of support for non-rural carriers would potentially cause particularly egregious harm to customers of non-rural carriers in state which historically had service costs in excess of national average).

⁸ See *In the Matter of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp., Petition for Waiver of Section 54.314(d) of the Commission’s Rules*, Mississippi Public Service Commission, *Petition for Waiver of Sections 54.313(d) and 54.314(d) of the Commission’s Rules*, Order, 21 FCC Rcd 9170, 9173 ¶ 77 (2006) (recognizing as it has in prior orders that “it would be onerous to deny an ETC receipt of universal service support because of a delay beyond the control of [the ETC].”)

For these reasons, the Commission should grant the WYPSC's Petition for Waiver and permit the non-rural ETCs in Wyoming to receive federal universal service high-cost model support for the first quarter of 2008.

Respectfully submitted,

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March 31, 2008

CERTIFICATE OF SERVICE

I, Eileen Kraus, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC. IN SUPPORT OF THE WYOMING PUBLIC SERVICE COMMISSION'S PETITION FOR WAIVER** to be: 1) filed with the FCC via its Electronic Comment Filing System in CC Docket No. 96-45; 2) served via e-mail on Ms. Jennifer Prime, Telecommunications Access Policy Division, Wireline Competition Bureau at jennifer.prime@fcc.gov; 3) served via e-mail on Mr. David Duarte, Telecommunications Access Policy Division, Wireline Competition Bureau at david.duarte@fcc.gov; 4) served via First Class United States mail, postage prepaid, on the party listed below; and 5) served via e-mail on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/ Eileen Kraus
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March 31, 2008

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